

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CADLEROCK JOINT VENTURE II LP,

Plaintiff,

Case Number 06-15445-BC
Honorable Thomas L. Ludington

v.

CECIL FIELDER, C. J. USA, INC.,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE CADLEWAY PROPERTY INC.'S
MOTION FOR ISSUANCE OF A SUBPOENA IN FLORIDA**

On May 29, 2008, the Honorable Paul V. Gadola entered judgment in this Court in favor of Plaintiff Cadlerock Joint Venture II LP (“Plaintiff” or “Cadlerock”), and against Defendants Cecil Fielder and C. J. USA, Inc., in the amount of \$234,381.22, plus attorney fees and costs in the amount of \$11,291.07, in addition to prejudgment interest as allowed by law. *See* [Dkt. # 31]. Now before the Court is a motion, purportedly on behalf of Plaintiff, for issuance of a subpeona in Florida [Dkt. # 37]. For three reasons, this motion will be denied without prejudice.

First, the motion does not reflect that Defendants’ concurrence was sought as to the motion. Pursuant to E.D. Mich. LR 7.1(a), a party must seek concurrence in all motions. Second, the motion was filed on behalf of Cadleway Properties, Inc., rather than Plaintiff Cadlerock. On May 29, 2008, prior to entry of judgment in Plaintiff’s favor, Plaintiff Cadlerock substituted into the action in place of Cadleway Properties, Inc., pursuant to Federal Rule of Civil Procedure 25(c). *See* [Dkt. # 29]. Thus, it is not apparent that the relief sought by Cadleway Properties, Inc., in this motion, or even any relief, is appropriately granted in favor of Cadleway Properties, Inc. Third, and finally, the

motion does not provide any legal authority for this Court to order any “appropriate authority in Florida” to issue a subpoena, rather than enforce a subpoena issued pursuant to this Court’s own authority.

Accordingly, it is **ORDERED** that Cadleway Property, Inc.’s motion for issuance of a subpoena in Florida [Dkt. # 37] is **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 14, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 14, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS